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Senate

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Allison Jones Rushing, of North Carolina, to be United States Circuit Judge for the Fourth Circuit.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

NOMINATION OF CHAD A. READLER

Mr. SCHUMER. Mr. President, this week the Senate will vote on another of President Trump's hard-right judicial nominees, Chad Readler, of the Sixth Circuit Court of Appeals in Ohio.

Let me just say, anyone who thinks the Republican Party has abandoned their embrace of eliminating protections for preexisting conditions ought to see how everyone votes on Chad Readler. It will be a surprise to no one that this nomination is proceeding over the objection of Senator BROWN, yet another example of Republicans discarding the blue slip. Mr. Readler stands out in his own way. A vote to confirm this nomination is a vote to end protections for Americans with preexisting conditions.

Mr. Readler is behind the Trump administration's decision last year to side with Texas and 19 other States with Republican attorneys general suing to repeal our healthcare law. Mr. Readler was not just somebody who worked on the case; he was the lead lawyer, filing the Department of Justice brief declaring that the administration refused to defend the laws of our country.

In a brief so outlandish that career Justice Department attorneys refused to sign, Mr. Readler argued that protections for people with preexisting conditions should be eliminated. Mark

my words. When this vote is cast, we will see how every Republican feels about preexisting conditions, their protestations to the contrary.

Listen to this, folks. On the very next day after the brief was submitted, Mr. Readler was rewarded for his efforts by President Trump with a nomination for a lifetime appointment. On day one, Readler files the lead suit to eliminate protections for those with preexisting conditions, and on day two, he is nominated to the bench—a lifetime appointment.

All 47 of us Senate Democrats are united in opposing this nomination, and we urge our Republican colleagues who claim to support protections for preexisting conditions to join us in voting to reject his nomination.

He is not just some lawyer who participated. He is the chief cook and bottle washer of the case that hurts hundreds of millions of Americans. If you have a daughter with cancer, and you can't get insurance, if you have a wife or a husband who has a serious condition, and the insurance company pulls back, you are losing your protection if Readler has his way. Now he is going to get on the bench with a lifetime appointment unless our Republican colleagues have the sense and the courage to block him.

On this vote, every Republican will be forced to show their constituents and the American people whether they stand for preexisting condition protections, for more Americans having healthcare coverage, protecting Medicaid, and all insurance plans covering maternity care and prescription drugs. Having failed in Congress to repeal these vital healthcare protections that American families count on each day, President Trump has turned to the courts. The decision by Mr. Readler, President Trump, and others in the Trump administration to side with Republican attorneys general who have declared our healthcare law unconstitutional is the latest example of the

The Senate met at 3 p.m. and was called to order by the President pro tempore (Mr. GRASSLEY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, we praise Your greatness, might, and majesty, for You are exalted above all. We receive power because of Your presence, and Your compassion never fails.

Today, guide our lawmakers as they strive to do Your will. Deliver them from the strain and stress of the demands of daily duties. Give them wisdom and courage for the living of these days.

Lord, unite them in the common endeavor to make America a beacon of freedom for our world. May all they think, say, and do truly honor You.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HAWLEY). Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

• This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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President and Republicans trying to repeal our healthcare law.

The Texas lawsuit is working its way through the courts now. If Mr. Readler's legal argument prevails in the courts, access to healthcare for children with asthma, adults with arthritis, and cancer survivors would no longer be guaranteed.

Mr. Readler argues that preexisting condition protections like these are unconstitutional. We Senate Democrats think that is outrageous and extreme, which is why we are calling on Republicans to join us in opposing his nomination.

In short, any Republican Senator who supports Mr. Readler's nomination is supporting the Trump Republican lawsuit to get rid of preexisting condition protections and to take away healthcare from tens of millions—if not hundreds of millions—of Americans.

DECLARATION OF NATIONAL EMERGENCY

Mr. President, now on the national emergency, over the weekend, RAND PAUL, the fourth Republican in the Senate, announced his support for the resolution to terminate the President's national emergency, giving it the needed 51 votes to pass this Chamber.

It is clear that Members of both parties know there is no actual emergency at the border. The President himself made clear, when announcing the state of emergency, that he didn't need to do this. When the President says "I don't need to do this," he is saying that there is no emergency.

By definition, an emergency is something you need to do; it is an emergency. In the President's own words, this is not an emergency. It is a political bone and a face-saving device for the President to throw to the right-wing, to show he is still fighting for the wall. It goes way beyond simply how you feel on the wall, pro or con; it goes to the fundamental building blocks of how this country was structured.

Congress has the power of the purse. Congress is a check on the Executive. The Founding Fathers feared—probably above anything else, having dealt with King George in the Revolution—that an overreaching Executive was one of the greatest dangers to our democracy. That is why so many Presidents have respected and done emergencies only in the rarest of times.

The last bunch of emergencies were either a war, 9/11, Desert Storm, diseases—real emergencies—things that affect our climate, disasters such as hurricanes and tornadoes, in terms of what has happened with our weather and our climate.

If this coequal branch of government allows Presidents—whoever they may be, Democrats or Republicans—to just declare an emergency whenever they want to achieve a partisan policy goal, it will fundamentally alter the balance of power in this country in a way the Founding Fathers would be aghast at.

My guess is if George Washington, Benjamin Franklin, or James Madison

were looking down on this Chamber, they would want us to rise to the occasion; that was the democracy they wanted. I don't know if we will.

The Founders of this Nation gave the Congress one of the greatest powers any government has—the power of the purse. President Trump is trying to take these powers away, even after Congress rejected—explicitly rejected several times—the money for his wall.

We Democrats know this, and now it is clear that a growing number of Republicans know it, as well: To allow this emergency to persist is a change in the fundamental, necessary, and often exquisite balance of power that marks the genius of the American Constitution.

I know many of my friends on the other side of the aisle understand that. In fact, if you are a true conservative and not just a Trump acolyte, you realize that there shouldn't be too much power centralized in any place because conservatism, at its root, believes in maximizing the freedom of the individual and minimizing anything that encroaches on it, including an overreaching Executive. So to look the other way because President Trump wants this and because he is sometimes almost in a temper tantrum about this issue is so shortsighted and so detrimental to the long-term health, stability, and viability of how this balance of power works.

Let us come together on this issue—Democrats, Republicans, House and Senate—and rise to the occasion. If Congress stands up, it will be a reaffirmation of our democracy. It will be a day historians will proudly note decades from now. It will be a reaffirmation of the democracy the Founding Fathers wanted.

CLIMATE CHANGE

Mr. President, for decades, we have known that climate change is not only a major national challenge but an existential threat to our planet and to our future.

Despite the gravity and scale of this challenge, one political party in the United States—the Republican Party—has largely denied the problem even exists, denied the overwhelming consensus of the scientific community, and denied most attempts in Congress to tackle climate change.

Today marks day 18 since I first challenged our Republican leader and all of my Republican colleagues to answer these three questions: One, is climate change real? Two, is it caused by human activity? And, three, should Congress act immediately, strongly, to deal with this issue?

We haven't heard an answer from the leader or from almost every Republican in this body. So let me repeat them again.

Leader MCCONNELL, do you believe that climate change is real? Leader MCCONNELL, do you believe that it is caused by human activity? Leader MCCONNELL, do you believe that Congress should take immediate action to address the crisis of climate change?

I suppose it is not a surprise that Republicans are fearful to answer these questions. They know the public is on our side on this issue, overwhelmingly two to one. But the oil industry, which funnels tons of money into Republican coffers, much of it dark money, undisclosed—they are on the other side. That is why they are afraid to answer the question one way or the other.

Today's Washington Post details how the denial of basic scientific facts surrounding climate change is amounting to a political litmus test for President Trump. Perhaps Republicans are avoiding answering questions I have posed for fear that the President would retaliate for siding against him and his radical views. There is no real, rational explanation.

U.S.-CHINA TRADE NEGOTIATIONS

Mr. President, finally, on China trade, we have seen reports in today's newspapers that President Trump is close to cutting a deal with China.

I have given the President credit for bringing China to the table with his strong action on tariffs. He has done more to stop China from stealing our intellectual property and keeping American businesses out, causing tens of millions of Americans to lose income and millions of Americans to lose jobs. He has done more than previous Presidents. I give him credit.

But if now—at the end of the day—he sells out, backs out, and just looks at trade balances and doesn't deal with the fundamental, structural ways China takes advantage of us, it doesn't matter that he put in the tariffs in the first place.

The bottom line is very simple: China is our economic rival, and they don't play by the rules. They steal intellectual property by cyber theft, even promising that they will not. They don't let American companies come in and compete fairly in China, even though their companies can come here.

My late father-in-law, a cabdriver in New York City, just like one of those Damon Runyon cabdrivers, said that when it comes to certain things, America is not Uncle Sam; we are "Uncle Sap." When it comes to China, that is what we are. We have let them take advantage of us for two decades—two decades.

Now President Trump has the opportunity to stop them, and the news reports today say that he is going to back off—back off—because China will buy some more product.

China's buying more products will not change the structural problems. It will not change the basic erosion of American wealth and jobs as it flows to China. It is a temporary salve and nothing more.

I care about our farmers; we have a lot of them in New York State. I care about companies that might be hurt in the short run by this, but unless we take some tough action against China, the hurt will be much greater and much longer.

I say to President Trump: You stayed tough in North Korea, and it inured to

your benefit. The Democratic leader of the Senate praised President Trump for doing that. Stay tough on China. When it comes to China, don't let March be the month when it is said that President Trump went in like a lion and went out like a lamb, and President Xi, a darn good negotiator, figuratively eats our lunch.

There is a generational imperative to get this right. The President and his folks must not squander the chance to achieve permanent reforms to China's economic relations with the world. This chance will not come around again for a long time, and American wealth, income, and jobs will ebb. This is one of the most important moments in the Trump Presidency.

President Trump, stand tough. China can no longer be allowed to take advantage of us.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

TORNADOES IN ALABAMA AND GEORGIA

Mr. McCONNELL. Mr. President, I know the entire Senate joins me today in offering deep sympathies to the communities affected by yesterday's spate of tornadoes in east Alabama and Georgia. As first responders continue to search for survivors in the rubble, we know that at least 23 innocent lives were lost to this disaster all in Lee County, AL. Our condolences are especially with their loved ones, and our gratitude is with the emergency personnel and local officials who spearheaded evacuation and rescue efforts.

The people of Alabama are all too familiar with the pain caused by devastating storms like yesterday's. The entire region has been hit hard in recent years, seemingly by one disaster after another. They continue to brace against the threat of tornadoes and the flooding that so often impacts communities in my State of Kentucky.

At every step of the way—from response and recovery to resilient achievement—Alabama has benefitted from the devoted leadership of Senator RICHARD SHELBY. On the specific issue of disaster recovery, his hard work and steady hand have helped to lead the charge. When supplemental funding for natural disaster relief receives floor time here in the Senate, it will be thanks to the hard work of our colleagues like Senator PERDUE, Senator ISAKSON, and others, and, certainly, Chairman SHELBY.

Of course, this is far from the only area in which RICHARD SHELBY has delivered results for his State and for our Nation. For years, he has made a per-

sonal mission out of restoring and improving our Nation's infrastructure. He has brought wise and decisive leadership as our chief appropriator, and the State of Alabama bears countless signs of Senator SHELBY's dedicated service—from supporting the missile defense and space exploration programs in Huntsville to helping to establish the National Water Center in Tuscaloosa, where researchers forecast floods and work to mitigate water-related hazards.

It is fitting today to praise Senator SHELBY's continued service. It also happened that, over the weekend, the senior Senator from Alabama became the longest serving senator in the history of his State. I couldn't be happier to recognize my friend RICHARD SHELBY on this occasion, and I know each of our colleagues will join me in congratulating him on the years of faithful service to Alabamians that have made this recognition possible.

NOMINATIONS

Mr. President, on an entirely different matter, this week the Senate is considering the nominations of three more well-qualified jurists to vacancies on our Nation's Federal courts.

First is Allison Jones Rushing, of North Carolina, to serve on the Fourth Circuit. Ms. Rushing is a graduate of Wake Forest University and Duke University School of Law with high honors. In the years since, she has built a distinguished record in private practice and has held prestigious appellate clerkships on two Federal circuit courts and the U.S. Supreme Court.

I will have more to say on the state of our nominations process soon, but I hope each of our colleagues will begin the week by joining me in voting to advance Ms. Rushing's nomination later today.

THE GREEN NEW DEAL

Mr. President, on one final matter, like many Americans, I have spent the past several weeks watching with interest as prominent leaders in the Democratic Party have engaged in a political footrace. They are sprinting—literally, sprinting—as far left as possible, as quickly as possible, trying to outdo one another. The result is that one of our two major political parties has begun embracing one radical, half-baked socialist proposal after another. It is really a sight to see.

First came the Democratic Politician Protection Act, a sweeping Washington, DC, takeover of what Americans can say about politics and how they elect their representatives. Speaker PELOSI and her House colleagues were ready with that from day one in this new Congress. They chose it as their No. 1 ceremonial first bill of the year, H.R. 1. Let me say that this is quite a piece of legislation to hold up as the defining product—bear in mind, the defining product—of a new Democratic House majority.

House Democrats are championing an unprecedented takeover of our Nation's electoral system—one that would over-

haul campaign rules and make it harder for private citizens to exercise their right to political speech.

It would replace private money in political campaigns with your tax dollars. Let me say that again. They take your private money contributed to a candidate of your choice out of the political process and replace that with your tax dollars—up to \$5 million to any candidate that wants it—even, by the way, if it happens to be a candidate you disagree with. They are going to take your tax money and give it to candidates you don't agree with and swing the partisan balance of the Federal Election Commission, which has the final say in election regulations.

Oh, and it all comes under the guise of—you guessed it—this is about restoring democracy. Now, of course, this sprawling 622-page doorstop is never going to become law. I certainly don't plan to even bring it to the floor here in the Senate. There are always improvements and reforms to be made, but this certainly isn't it.

It does give us a useful signal of our Democratic colleagues' real goals—what they really want to do. Democrats look out over the landscape of America today, and everywhere they look, they see opportunity to seize money and power from American families and communities and pile it up in their own hands—you guessed it—right here in Washington. Taxing more, spending more, and Washington's seizing more power away from the people—that is the Democrat's hammer of choice. In every part of American life, they see a nail. In every part of American life, they see a nail.

Just look at the Green New Deal. From what we understand, the American people can expect a government-mandated overhaul of every four-walled structure in America—a government-mandated overhaul of every four-walled structure in America—and, if that were not enough, an end to American fossil fuel and energy production from nuclear powerplants—of course, along with all the jobs that make both of those possible.

According to background documents, there are plans for a government-guaranteed income. Listen to this: a government-guaranteed income for those unwilling to work, all at the low price of an estimated—listen to this—\$93 trillion.

Of course, next came the massive one-size-fits-all government-run healthcare proposal—“Medicare for none.” It strips everything from our seniors' Medicare Program but the name. It slaps that name on a new government-run plan, and they are so confident Americans will love their Democratic-designed insurance that they feel the need to outlaw competing private insurance altogether, just to make sure there is no competition.

Democrats want to strip existing health plans away from middle-class families, even if they are happy with their current coverage, and, inevitably,

hike taxes on those very families to pay for it.

As I have said, none of these things Democrats have pulled off their far-left wish list have a chance of becoming law in 2019. A lot of it almost sounds like standup comedy, but the underlying philosophy that all of this represents is no laughing matter whatsoever.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECLARATION OF NATIONAL EMERGENCY

Mr. CORNYN. Mr. President, despite what you hear inside the beltway, the challenges along our southwest border are real, and the people of Texas feel that impact every day along the 1,200-mile common border we have with Mexico.

Last week, for example, the Border Patrol in the Rio Grande Valley Sector arrested 1,300 illegal immigrants in a single day—the second time in 2 weeks they exceeded that number. In the same time period, the Laredo port of entry seized \$2.3 million worth of cocaine and marijuana. Sadly, a father and son traveling from Guatemala nearly drowned while attempting to cross the Rio Grande but were saved thanks to the efforts of the Border Patrol. In a small town just north of Eagle Pass, a group of 90 undocumented immigrants—many of whom were women and children between the ages of 1 and 17—were apprehended after crossing the Rio Grande River. That was all in Texas last week.

Last year alone, 400,000 people were detained coming across our southwestern border—400,000. Tens of thousands of unaccompanied children and family units were detained as well.

These stories have become so common, somehow we have become anesthetized to the human emergency and crisis occurring along the border. Frankly, I do not understand why our Democratic friends have become completely apathetic when it comes to border security or dealing with what President Obama himself called a humanitarian crisis.

A few weeks ago, we know President Trump declared a national emergency over this crisis, which would allow some funding to be shifted from other areas to support our Border Patrol missions. This decision was met with a great deal of pushback, some of which I believe is warranted and some of which I believe is not. I would like to explain what I think is warranted and what I think is not.

For those, like some of our colleagues across the Capitol, including some of the Texas Democratic delegation—they call this a fake emergency. I couldn't disagree more. Just ask the

folks who live along the border and deal with this each day. The scenes I describe are not isolated incidents; they are happening daily, weekly, monthly, and at a scale and volume that, frankly, are overwhelming the ability of officials and people along the border to deal with.

Let's rewind to 2014. I alluded to this a moment ago. When President Obama was President, we saw an unprecedented number of Central Americans coming across the border claiming asylum. That year, 68,000 family units were apprehended at the southern border—"family units" meaning at least one adult and at least one child. That is what President Obama called a humanitarian crisis.

Today, not much has changed except for the numbers, and it has gotten worse, not better. In the last 4 months alone, there have been nearly 100,000 family units apprehended at the border. These are people arriving en masse by the thousands, sometimes called a caravan. We know there are dangerous drugs that come in at the same time every day, young women and children are being trafficked into sex slavery, and migrants are being abandoned by coyotes and left to die in the desert.

So I don't see a lot of difference between what President Obama called a humanitarian crisis in 2014 and what President Trump in 2019 calls an emergency.

While I agree that there is a crisis at our border and that more needs to be done, I have been consistent in my concerns about the means by which this funding is being provided.

This whole episode is completely contrived by the fact that the Speaker of the House, Ms. PELOSI—despite the fact that we had bipartisan support for the Secure Fence Act in 2006 and 2008, she all of a sudden decided, because the politics suited her, that building any additional physical barrier was immoral. The Democratic leader here in the Senate said that not one dollar was going to be spent for physical barriers along the border. We saw an impasse that resulted in the Federal Government or at least 25 percent of the government being shut down for 35 days. This was completely unnecessary and contrived. This was all about politics and certainly not about trying to find solutions to the problem.

I have said before and I will say again that where we are now was not anybody's first choice—certainly not mine. We know that many legitimate concerns have been raised about the clear definitions of the role of the legislative and executive branches. It is clear under the separation of powers that Congress holds the checkbook. No matter who the President is or what they want funding for, it must be authorized by Congress. But when Democrats refuse to engage in a problem-solving process, as they have done over the last few months, it makes things much more complicated.

We heard the Speaker of the House, as I said, refuse to provide more than

one dollar for border security. The minority leader said that no additional money would be provided for barriers. The reason they made these statements isn't because Democrats are all of a sudden opposed to improved border security. As we have seen in the past, Democrats have supported those physical barriers. In 2006, the Democratic leader himself and a number of our current colleagues and then-colleagues, such as Hillary Clinton and Barack Obama, supported the Secure Fence Act, but today, somehow things are different.

Democrats refuse to come to the negotiating table, not because they are against border security, presumably, but because their political base dislikes the man sitting behind the Resolute Desk. This is not about the facts or the problem presented; this is about whether President Trump will be defeated in his attempts to get additional money for border security. As the President found out, it is pretty tough to find a compromise when your negotiating partners—the Speaker and the Democratic leader of the Senate—refuse to come to the table at all. So the President found himself negotiating against himself.

I believe the regular appropriations process should always be the approved method, but, of course, Congress—and this should be a wake-up call to each of us—Congress has approved emergency powers as an exception to the normal process by which money is appropriated.

While some are trying to make this seem like a constitutional crisis and some groundbreaking breach of power by President Trump, I don't believe that is true, because he is using the power that was delegated to the executive branch by Congress. In other words, he is not making this up out of whole cloth, like President Obama did when he provided deferred action for childhood arrivals. He said more than 20 times that he didn't have authority to do it, that there was no statute to authorize it, but he did it anyway. It continues to be litigated—now up to the Supreme Court of the United States.

Here is what I found when this controversy arose, when we did some research. We found that Congress has granted the Presidency emergency powers under 123 statutes. This marks the 60th time the emergency powers have been invoked under the National Emergencies Act since 1978. So Congress is responsible for providing this exception to the normal appropriations process. Congress has done that 123 times, and Presidents have used those powers 60 times. That ought to put what is happening today in some larger context. Previous Presidents have used them for things like prohibiting the importation of blood diamonds from Sierra Leone or prohibiting new investment in Burma.

Because the President's emergency declaration fits into the confines of the

authorities Congress has given him, this is not a constitutional crisis, in my view, as some people are painting it to be, but I am concerned about the process for a few reasons.

One, as a number of our colleagues have pointed out over the last few weeks, it does set a precedent. A use of these powers in circumstances under which a conference committee has already come up with a dollar amount for border security that was ultimately signed by the President and he declared a national emergency on top of that in order to gain access to additional money—I do worry that this sets a precedent whereby a future President could abuse this authority.

These 123 congressional grants of authority to Presidents—any President—are broad, and they cover everything from the military, to public health, to Federal pay schedules. Some are pretty unremarkable, such as the one that allows the Secretary of Transportation to waive vehicle weight limits on a stretch of Interstate 95 in Maine. That is one of the congressional delegations of authority. Others are more alarming, such as the one that would authorize the President to suspend a law prohibiting the testing of chemical and biological weapons on human subjects.

What I find most concerning is that the definition of an “emergency” is very vague and subjective, which means it is going to end up being the subject of litigation. Yes, lawsuits have already been filed in the Federal district court challenging this declaration of an emergency under these circumstances. This gets to my basic problem, which is that this is not a very productive way to actually accomplish the goal if you know that what you are going to do is going to be tied up in litigation for the next 6 months or a year.

But I have to ask the question: Under these broad grants of authority that Congress has previously given to a President or any President, what would stop a future President from declaring a national emergency over climate change or global warming? I am concerned that we are going to see these emergency powers used as a failsafe for policies favored by the Executive—one who takes it further for a purely ideological goal that in no way comes close to a crisis or emergency.

Yes, I also worry that some of the money that will be accessed under this declaration of national emergency is for military construction projects, many of which are located at military bases in Texas. This is not a case of, do we need border security, or do we need to provide the housing and infrastructure for our military—we need both. So the President and Congress should not try to rob from Peter to pay Paul.

I, along with my colleagues, have fought for these appropriations for military construction because they are important to the ability to recruit and retain men and women who volunteer for the military, and their families.

They are important for our national security. I have and I will continue to push the administration to not let these critical projects get caught in the crosshairs in this dispute over adequate border security funds.

Third and finally, I suggest that Congress needs to look in the mirror when it comes to the situation in which we find ourselves. The only reason President Trump had the authority to do what he did is because Congress delegated it to him, just like it is delegated to future Presidents and has been to past Presidents under these 123 separate grants of authority. I worry that Congress has delegated too much of its power to the executive branch.

In the 1944 case *Korematsu v. United States*, the Supreme Court upheld the internment of Japanese Americans—something unimaginable today, but in 1944, during the throes of the Second World War, it was something that was the official policy of the government. It went all the way to the Supreme Court of the United States. Justice Robert Jackson—one of the three dissenters—said that each emergency power “lies about like a loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of an urgent need.” I agree with Justice Jackson’s warning.

If our Democratic colleagues are concerned about how this President or any other President will utilize the powers this body has given him, perhaps we should reexamine those powers rather than fault the President for using authorities Congress has already given to him.

Despite these concerns, I believe the President is operating within the authority Congress has delegated to him. It is strictly because of the dysfunction in the Congress and our inability to work together to come up with solutions when it comes to border security or immigration that the President is desperate to find access to the funds he believes are necessary for the national security of our country.

As I said, I think this situation reflects more on the dysfunction in Washington these days and the inability of Congress to work with the President to find bipartisan, commonsense solutions. I think we ought to return to those bipartisan, commonsense solutions rather than engage in some of the drama associated with this particular declaration under these sets of circumstances.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. ERNST). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECLARATION OF NATIONAL EMERGENCY

Mr. ALEXANDER. Madam President, on Thursday, I suggested that Presi-

dent Trump has sufficient congressional authority to spend the \$5.7 billion he asked for in his January 6 letter to the Senate Appropriations Committee chairman to build 234 miles of border wall without resort to a dangerous national emergency precedent that could upset the constitutional separation of powers that goes to the heart of our freedom.

I believe the President has clear authority to transfer up to \$4 billion among accounts within the over \$600 billion defense budget in order to counter drug activities and to block drug smuggling corridors across international borders.

On February 15, the President said that he plans to use \$2.5 billion of this same transfer authority to build the 234 miles of wall along the southern border that he asked for in his January 6 letter. If he increases the transfer from \$2.5 billion to \$3.7 billion, along with the other existing funding authority that he has, he will have the full \$5.7 billion that he said he needed.

William E. Nelson, of New York University School of Law—one of America’s foremost scholars of legal history—wrote an excellent op-ed last week that explained why it is so important that the President and the Congress should not, in Professor Nelson’s words, “invert the entire constitutional order where Congress appropriates and the President spends.”

I ask unanimous consent that Professor Nelson’s article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CONVERSATION: TRUMP VS. CONGRESS: THE EMERGENCY DECLARATION SHOULD NOT BE RESOLVED IN COURT

(Op-ed by: William E. Nelson, New York University February 28, 2019)

President Donald Trump’s emergency declaration to build a border wall has provoked a constitutional confrontation with Congress.

Here is the background for understanding what’s at stake—beginning more than two centuries ago.

A major problem for the framers at the Constitutional Convention in 1787 was how to create a presidency powerful enough to protect the nation, yet constrained enough to prevent a president from becoming a dictator.

Ultimately, the president was given power to enforce the law, conduct foreign relations and command the armed forces. Congress retained most other key powers, including the power of the purse and the power to declare war.

The framers knew they could not predict all that the future would bring. So they left the precise boundaries between presidential and congressional power unclear. This imprecision in our checks and balances has served the nation well for 230 years because it provides the flexibility to govern while preventing tyranny.

As scholars of constitutional law and history, we believe that President Trump’s assertion of a national emergency to build a wall along the Mexican border and the lawsuits filed in response together threaten the very imprecision that has helped maintain constitutional checks and balances for more than two centuries.

To best maintain that balance, this confrontation should be resolved in the political realm, not in the courts.

THE NATIONAL EMERGENCY

But the lawsuits over the emergency declaration will probably reach the Supreme Court, and the court might well hold Trump's emergency declaration unconstitutional.

That would set a precedent that would unduly limit national emergency power that some future president may need.

Alternatively, the court could decide the lawsuits in Trump's favor. That would invert the entire constitutional order, where Congress appropriates and the president spends. It would undercut the checks and balances provided by the framers and lead to an incredibly powerful presidency.

Either result the court reaches would set a bad precedent.

Congress can avert this problem.

The 1976 National Emergencies Act gives Congress power to invalidate a president's declaration of emergency by a resolution passed by simple majorities of both houses.

The House voted 245-182 on Tuesday to overturn President Trump's national emergency declaration. Democrats were joined by more than a dozen Republicans in the vote. The Senate will now take up the measure, though a vote has not been scheduled.

White House adviser Stephen Miller has already suggested that Trump would veto any such resolution.

"He's going to protect his national emergency declaration. Guaranteed," Miller said on Fox News. Both the House and the Senate would then need two-thirds majorities to override his veto.

We believe that for Congress to protect the constitutional order, its members must muster the necessary two-thirds majority.

TO THE COURT

If Congress does not override the president's veto, the lawsuits will probably go to the Supreme Court. The court's decision has strong potential to do harm to the historic constitutional balance.

That balance was upheld by the Supreme Court in a crucial decision more than 50 years ago.

On April 9, 1952, President Truman declared a national emergency. In the midst of the Korean War, he seized the country's steel mills on the eve of a nationwide strike because steel was necessary to make weapons. The steel companies immediately brought a lawsuit against the seizure in federal court.

Recognizing the importance of the issue, the Supreme Court heard arguments on May 12, and handed down its decision on June 2.

The court, in *Youngstown Company v. Sawyer*, rejected the president's claim by a 6-3 majority.

Justice Robert Jackson wrote an opinion proclaiming a general approach to the balance of powers between Congress and the president, rather than a fixed rule.

Jackson declared that "when the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum."

The president's power, Jackson wrote, is in a "zone of twilight" when Congress has not spoken. When "the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb."

PRESIDENT AGAINST CONGRESS

President Trump is acting contrary to Congress's will by appropriating money Congress has refused to appropriate. He signed a carefully constructed compromise budget bill passed by more than veto-proof two-

thirds majorities in both houses. He accepted the U.S. \$1.375 billion that the bill gave him for a border wall.

He then broke the deal by declaring a national emergency to allocate an additional \$6.7 billion to pay for border wall construction.

In two important cases, the Supreme Court has broadly prohibited Congress from giving any of its appropriations authority or responsibility to the president—even voluntarily.

Congress's adoption of a joint resolution seeking to invalidate Trump's emergency declaration—an explicit statement of congressional will—would provide conclusive evidence that would only strengthen the argument that the president is acting contrary to Congress's will.

PRESERVING THE CONSTITUTIONAL BALANCE

If the case gets to the Supreme Court, the president's lawyers might argue that for Congress to decisively oppose an emergency declaration of the president, lawmakers must override his veto by a two-thirds vote.

Imposing such a veto override requirement, however, would eliminate the court's role. That's because a presidential declaration of emergency is immediately invalid if Congress overrides a presidential veto.

Two-thirds overrides are historically unlikely by Congress. And requiring a two-thirds vote would give a president who declares a national emergency virtually unlimited power to appropriate money to his or her heart's content—perhaps hundreds of billions of dollars to address, for example, climate change by subsidizing construction of wind farms.

Requiring Congress to override a presidential veto that protects a presidential appropriation would turn the appropriations power and the Constitution's checks and balances inside out.

Congress has already spoken through passing the spending bill and will be considering a resolution to invalidate the president's declaration of emergency.

Such a resolution, even if vetoed by the president, places President Trump's declaration in Justice Jackson's category where presidential power "is at its lowest ebb."

It also preserves the historic flexibility by allowing the court's decision to give deference to the votes of Congress in cases of claimed emergencies.

This story has been updated to reflect the House vote on Feb. 26, 2019, on the resolution to overturn President Trump's national emergency declaration.

Mr. ALEXANDER. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Rushing nomination.

Mr. WICKER. Madam President, I ask unanimous consent to speak as in morning business for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING BORIS NEMTSOV

Mr. WICKER. Madam President, on Sunday, February 24, thousands of people marched in Moscow and in cities across Russia to remember Boris Nemtsov, a Russian statesman and friend of freedom who was gunned down in sight of the Kremlin walls 4 years ago.

These people were honoring a Russian patriot who stood for a better fu-

ture—a man who, after leaving the pinnacle of government, chose a courageous path of service to his country and his fellow Russians. Boris Nemtsov was a man who walked the walk. When others were silent out of fear or complicity, he stood up for a future in which the Russian people need not risk jail or worse for simply wanting a say in how their country is run.

Sadly, since Mr. Nemtsov's assassination, the risks of standing up for what is right have grown in Russia. With every passing month, ordinary citizens there become political prisoners for doing what we take for granted here in the United States—associating with a political cause or worshipping God according to the dictates of one's conscience.

Last month alone, in a high-profile case, a mother was jailed for the crime of being a political activist in Russia. She was kept from caring for her critically ill daughter until just hours before her daughter died. Jehovah's Witnesses have been sentenced to years behind bars for practicing their faith. Also, a leader of a small anti-corruption organization was beaten to death with metal rods on the outskirts of Moscow. This was all just in February, and it is not even a comprehensive account of the Russian state's using its powers not against real enemies but against its own people—peaceful citizens doing what peaceful citizens do.

As for the Nemtsov assassination, 4 years later, justice has yet to be served. It appears that President Putin and his cronies have little interest in uncovering and punishing the masterminds behind Russia's highest profile killing in recent memory. While a few perpetrators who had been linked to the Kremlin-appointed leader of Chechnya, Ramzan Kadyrov, were convicted and sent to prison, Mr. Nemtsov's family, friends, and legal team believe the organizers of his murder remain unidentified and at large.

I understand that Russia's top investigative official has prevented his subordinates from indicting a close Kadyrov associate, Major Ruslan Geremeyev, as an organizer in the assassination, and the information linking Geremeyev to Mr. Nemtsov's murder was credible enough for a NATO ally to place Geremeyev on its sanctions list. Yet there has still been no indictment. Russian security services continue to forbid the release of footage from cameras at the site of the assassination. Russian legal authorities refuse to classify the assassination of a prominent opposition leader and former First Deputy Prime Minister as a political crime. Despite all of this, they have declared the case solved.

Given this pattern of deliberate inaction on the part of Russian authorities, the need for some accountability outside of Russia has grown more urgent. Russia and the United States are participating states in the Organization for Security and Cooperation in Europe, or the OSCE, and have agreed

that matters of justice and human rights are of enough importance to be of legitimate interest to other member states. Respect for these principles inside a country is often a predictor of the country's external behavior. So countries such as ours have a reason to be involved.

At the recent meeting of the OSCE's Parliamentary Assembly, we began a formal inquiry into Mr. Nemtsov's unsolved murder and have appointed a rapporteur to review and report on the circumstances of the Nemtsov assassination as well as on the progress of the Russian investigation. As the chair of the U.S. delegation to the OSCE Parliamentary Assembly, I supported this process from its conception at an event I cohosted last July in Berlin.

Yet, as the United States of America, there is more we can do. To that end, I am glad to cosponsor a resolution with my Senate colleagues that calls on our own government to report back to Congress on what we know of the circumstances around Boris Nemtsov's murder. This resolution also calls on the Treasury Department to use tools like the Magnitsky Act to sanction individuals who have been linked to this brutal murder, such as Ruslan Geremeyev.

We hear constantly from Russian opposition figures and civic activists that personal sanctions, such as those imposed by the Magnitsky Act, have a deterrent effect. Vladimir Putin has made it abundantly clear that these sanctions, based on personal accountability, are more of a threat to his regime than blunter tools, such as sectoral sanctions, that often feed his propaganda and end up harming the same people we are trying to help in Russia—innocent citizens. To its credit, the Trump administration has done a better job than had the previous administration in its implementing of the new mandates and powers Congress authorized in both the Russia and Global Magnitsky Acts. We are in a much different place than we were when these tools were originally envisaged nearly 10 years ago.

The administration is mandated to update the Magnitsky Act's list annually, with there being a deadline in December that sometimes slips into January. Now it is already March, and we have yet to see any new designations under the law that the late Mr. Nemtsov himself called the most pro-Russian law ever adopted in a foreign legislature. While the law has been lauded by Russian democrats, it is rightly despised by those like Vladimir Putin who abuse and steal from the American people.

Recall that it was at the Helsinki summit late last summer between the leaders of Russia and the United States of America—perhaps the grandest stage in U.S.-Russian relations in a decade—where Mr. Putin himself requested that his investigators be able to depose U.S. officials most closely associated with passing and implementing the

Magnitsky law, as if they were criminals.

We need to show the Russian dictator that this sort of bullying will not stand and that we will continue to implement the Magnitsky Act thoroughly and fairly.

A year ago, I participated—along with many of my colleagues in the House and Senate—in the unveiling of Boris Nemtsov Plaza in front of the Russian Embassy here in Washington, DC—the first official memorial to Boris Nemtsov anywhere in the world.

One day, I hope there will be memorials to Boris Nemtsov all across Russia, but the best tribute to his memory will be a Russia he wanted to see, a just and prosperous Russia, at peace with its neighbors and a partner with the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. BOOZMAN). The Senator from Iowa.

UKRAINE

Ms. ERNST. Mr. President, I rise to speak on Russia's ongoing and illegal occupation of Ukraine.

Two weeks ago, I had the opportunity to travel to Ukraine where I saw firsthand the effects of nearly 5 years of Russian occupation, aggression, and hostilities suffered by the Ukrainian people.

Since Russia's illegal seizure of Crimea in March of 2014 and their subsequent invasion of eastern Ukraine's Donbas region the following month, over 10,000—10,000—people have been killed and many more have been wounded or displaced in the fighting. Hiding behind so-called pro-Russian separatists in eastern Ukraine, the regime of Vladimir Putin has indiscriminately targeted both civilian and military targets, across the line of contact, in flagrant violation of the Minsk ceasefire and the law of war. In fact, shelling was occurring just 1 day prior to my visit to the Eastern Front.

The Eastern Front, even saying it now, before my colleagues in the Senate, the phrase seems almost surreal and harkens back to a bygone era in which the Cold War dominated our political landscape.

The first time I visited Ukraine was in 1989—1989—as part of an agricultural exchange program. The Soviet Union was on the verge of collapse, and the spirit of independence, freedom, and self-determination was gaining steam. My gracious Ukrainian hosts didn't want to discuss farming. It was an agricultural exchange, but they didn't want to discuss farming. They wanted to know what it was like to be an American. They wanted to know what it was like to have freedom and be independent.

Just like the oppressive yoke of authoritarianism dominated Ukraine in 1989, it once again threatens a people who have fought hard to create a nation of laws accountable to its people and as champions of human dignity, free markets, and democratic values. With our help, Ukraine has managed to

hold the line against the Russian aggressors. Our security assistance, in the form of intelligence-sharing, special operations capacity-building, and, most recently, the delivery of Javelin anti-tank weapons, has enabled the Ukrainian Armed Forces to deter further Russian advances into free Ukraine and has caused the Russian military forces in occupied Donbas to pull their tanks farther away from the frontline.

Unfortunately, Russia has found other ways to attack Ukrainian interests. In November of 2018, just a few months ago, Russian naval vessels opened fire and captured three Ukrainian ships along with 24 sailors in international waters just south of the Kerch Strait. Demonstrating his contempt for the international rules-based order, Vladimir Putin is using his naval supremacy in the region to slowly strangle the Ukrainian economy, which relies, in part, on steel and grain shipping from ports in the Sea of Azov. While our military aid has been successful in assisting Ukrainian efforts along the line of contact in Donbas, future military aid must take into account Ukraine's need for defensive weapons and asymmetric capabilities to counter Russian aggression both on land and at sea. Only then can Ukraine adequately defend its people and sovereignty.

In addition to hostile military action, Russian intelligence has been working to undermine the upcoming Ukrainian Presidential and parliamentary elections. Much like the interference in our own elections in 2016, Putin is seeking to sow discord, spread confusion, and undermine the democratic system that has taken root in Ukraine. This is indicative of Russia's global strategy, which seeks to drive a wedge between the United States and our allies, undermine democratic governments, and return to an era of power politics in which brute strength rather than the rule of law governs global interactions.

China has adopted a similar, albeit more subtle and increasingly aggressive, strategy in Asia, with an overarching goal of displacing American global leadership. Thus, it is more important than ever for the United States to work by, with, and through our allies around the world to ensure a future in which our values of freedom, the rule of law, human rights, and free markets prevail for generations to come.

Today freedom's frontier runs through the line of contact in eastern Ukraine. We must never turn our backs on a people yearning for the same freedoms we enjoy in the United States. Doing so not only legitimizes the actions of thugs—yes, thugs—around the world but will inevitably threaten our own rights and freedoms tomorrow, which many of us take for granted today.

We are Americans, and we will always answer the call to preserve freedom while reaching out a hand to those who are fighting to achieve it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

TORNADOES IN ALABAMA

Mr. JONES. Mr. President, people across the country and around the world today have seen the images of the terrible devastation left by tornadoes that touched down in Lee County, AL.

Lee County is home to Auburn University, and so many of the wonderful constituents there have suffered mightily over the last 24 hours. As of right now, we know 23 people have lost their lives—23—and as we speak, rescue teams and first responders are still out searching for others who may have been hurt. We pray that we have seen the last of the loss of life, but that is to be determined.

Already, this is one of the deadliest storms in our State's history, and Louise and I want to offer our most sincere condolences to all of those who have been affected by this horrible event. The youngest victim we know of was only 6 years old. My heart goes out to all the folks who have lost loved ones, who suffered damage to their homes and their businesses, and I ask that everyone pray for their comfort and healing.

I also thank the courageous first responders who put their lives on the line time and again to help folks in need. Our rescue crews are working around the clock, and we are so grateful to them for the work they do every day but especially on days like today and yesterday after tragedies like these strike. These are our friends and neighbors who step up in the wake of disaster to help their community, sometimes—sometimes—while struggling with the tragedy on a very personal level themselves.

Unfortunately, this is an all-too-familiar sight in Alabama. We have seen our fair share of natural disasters. On a single day in 2011, an estimated 60 tornadoes devastated so many towns and cities, including Cullman, Hackleburg, Pratt City, and Tuscaloosa, killing over 200 people. All of these have a way of being personal.

That day was especially personal for my wife, Louise, who is from Cullman. I was out of town that day attending a judicial conference and called her as she was watching on television how her town was being destroyed, debris flying everywhere, and she could barely speak. She can still barely speak about it today. As U.S. attorney, in April of 1998, I saw firsthand the devastating damage to the Oak Grove and Edgewater communities, where 32 people lost their lives. That destruction in Edgewater was especially personal to me because that is where my grandparents lived for so many years and where my parents lived when I was first born. I can remember walking

that day across the slab that was left of the little church my parents attended when I was born, walking across with President Clinton. It is unbelievable to witness that kind of damage.

Jacksonville, AL, is still rebuilding after a tornado severely damaged their city last year, including the campus of Jacksonville State University. Last fall, Hurricane Michael ravaged our farmlands in the Wiregrass in South Alabama, destroying cotton crops that were ready for harvest and 30-year-old timber. Yesterday's tornadoes touched down at a time when North Alabama is already dealing with historic flooding in Cherokee County.

I mentioned, it just seems all too often these have a personal note. As I checked in with my staff last night, I realized that two of my staffers who are with me on the floor today, Garrett and Michael, also are from that area. They also are concerned. It is a horrible situation to be this far away, knowing what is going on in your hometown and not knowing whether your loved ones are in the path of that destruction.

Alabama, however, is a resilient place, and we have an incredibly capable disaster preparedness and response agency, one that works around the clock when needed, but given all we have faced over the past year, we will still need help. While there is much yet to be done in the immediate aftermath of this storm, we know a full recovery will take a great deal of time and resources.

So I am here tonight to ask my colleagues in the Senate to stand ready to help Lee County rebuild and heal. Disasters will strike all of our communities at some point or another, and that makes it all the more important that we work together when they do.

To the folks in Lee County, AL, who have lost everything and who have lost loved ones in this disaster, I am in this with you for the long haul. I promise you that. I know things will never be the same for many folks, but I do promise that I will do everything I can to help.

I have already been working with Senators PERDUE, ISAKSON, and others to secure disaster funding for the 2018 storms that hit the Southeast last year. We are hoping that we can get an agreement on that bill very soon and get it onto the President's desk so those farmers can be ready for the next planting season that they are about to go into.

In the days ahead, I am going to be working closely with colleagues here in the Senate to secure Federal disaster funding that includes Lee County, AL, because, despite the fact that we are in the early stages, it is easy to see from the photographs and the videos of the devastation that they will need it.

We have been in touch with Governor Ivey and other local officials about how we in the Senate can best help. As the dust settles, we will be down there to try to make sure that our offices do

what is necessary to help those fine people.

In the face of all of these terrible tragedies, the thing that gives me hope is the strength of my fellow Alabamians. They are an amazing—amazing—citizenry. From one end of the State to the other, they are amazing people who see tragedy, but they build on that tragedy. Yet they never lose hope. Even though an event like this can be incredibly difficult, I have seen the resolve of the people of Alabama, and I know that we will be able to rise and rebuild.

Thank you.

TRIBUTE TO RICHARD C. SHELBY

Mr. President, I will conclude my remarks on that, but I would like to take one other moment.

At this point, I want to take this opportunity to congratulate my friend and my Senate colleague RICHARD SHELBY.

Yesterday, Sunday, March 2, he became the longest serving Alabama Senator in history, beating the record of the late-Senator John Sparkman, who was a Vice Presidential nominee.

Senator SHELBY's legacy in Alabama is unparalleled, beginning over in the House of Representatives, when he was first elected to this body in the election of 1986, taking office in January of 1986. He is leaving a remarkable mark on Alabama every day that he is in the U.S. Senate.

There are so many things that the people of Alabama are thankful for. I can assure you, I am both thankful and honored to be in the Senate with him and to serve alongside him.

Thank you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I ask unanimous consent to be recognized for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TORNADOES IN ALABAMA AND GEORGIA

Mr. ISAKSON. Mr. President, I am from Georgia. Last night in Georgia, Alabama, and throughout the Southeast, one of the worst tornadoes went through that has ever gone through in history.

Twenty-three Alabamians were killed last night; a number of homes in Georgia were wiped out and ruined. I don't think we had a death, but they had 23 in Alabama. The tragedies we are having in the Southeast continue to rise.

In a few weeks, we are going to ask the Senate to pass a disaster bill to reinstate some of the agricultural money for the last 2 years for our pecan crop, our blueberry crop, and others.

On behalf of the people of Georgia, I just want to say that we are having a tough time. Our agricultural community is in the most difficult time it could possibly be. We are going to ask the Senate to work with us to find appropriations that would make sense to bring back those pecan and blueberry farmers in Georgia, Alabama, and

South Carolina and to deal with the agricultural emergency we have had.

We also say a prayer of thanksgiving for the great opportunity we have to live in the Southeast but also recognize that we are now ground zero for tornadoes and those types of death-defying acts that are taking place. We want all of the people in Georgia and Alabama to know that our prayers go out to them. We will do everything we can to make them right.

Thank you.

I yield back my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, I yield back the remainder of our time and call the previous question.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Allison Jones Rushing, of North Carolina, to be United States Circuit Judge for the Fourth Circuit.

Mitch McConnell, David Perdue, Mike Crapo, Johnny Isakson, John Cornyn, Pat Roberts, James M. Inhofe, Thom Tillis, Roger F. Wicker, Lindsey Graham, Roy Blunt, John Thune, John Boozman, John Barrasso, James E. Risch, Richard Burr, John Hoeven.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on the nomination of Allison Jones Rushing, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

Mr. DURBIN. I announce that the Senator from Ohio (Mr. BROWN), the Senator from New Mexico (Mr. HEINRICH), the Senator from Vermont (Mr. SANDERS), and the Senator from Arizona (Ms. SINEMA) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 43, as follows:

[Rollcall Vote No. 34 Ex.]

YEAS—52

Alexander	Fischer	Portman
Barrasso	Gardner	Risch
Blackburn	Graham	Roberts
Blunt	Grassley	Romney
Boozman	Hawley	Rounds
Braun	Hoeven	Rubio
Burr	Hyde-Smith	Sasse
Capito	Inhofe	Scott (FL)
Cassidy	Isakson	Scott (SC)
Collins	Johnson	Shelby
Cornyn	Kennedy	Sullivan
Cotton	Lankford	Thune
Cramer	Lee	Tillis
Crapo	McConnell	Toomey
Cruz	McSally	Wicker
Daines	Moran	Young
Enzi	Paul	
Ernst	Perdue	

NAYS—43

Baldwin	Hassan	Rosen
Bennet	Hirono	Schatz
Blumenthal	Jones	Schumer
Booker	Kaine	Shaheen
Cantwell	King	Smith
Cardin	Klobuchar	Stabenow
Carper	Leahy	Tester
Casey	Manchin	Udall
Coons	Markey	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warren
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Gillibrand	Peters	
Harris	Reed	

NOT VOTING—5

Brown	Murkowski	Sinema
Heinrich	Sanders	

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 43.

The motion is agreed to.

ORDER OF BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII, all postclosure time on the Rushing nomination be considered expired at 4 p.m. on Tuesday, March 5; further, that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER (Mr. SULLIVAN). Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING BERTA CACERES

Mr. LEAHY. Mr. President, 3 years ago yesterday, Berta Caceres, an indigenous rights activist in Honduras who had been a vocal opponent of the construction of a hydroelectric dam that threatened the territory of the Lenka people, was murdered in her home.

That cowardly crime, about which I have spoken many times, was the culmination of years of harassment and threats against her life, and it was by

no means an isolated case. At the time, it was only the latest of scores of assassinations of social activists who protested against the confiscation of land, forced evictions, and infrastructure development involving corrupt payoffs to circumvent environmental and social safeguards, and against abuses by Honduran security forces. Nobody has been punished for any of those other, similar, crimes.

I did not know Berta Caceres, but I knew of her. I remember when she was awarded the prestigious Goldman Environmental Prize. I remember the disgust and outrage I felt when I learned that she had been murdered.

I remember thinking that whoever would murder Berta Caceres, a charismatic leader who was recognized not only in her native country but around the world, must have been confident that they would never see the inside of a jail cell, because in Honduras only a small fraction of homicides, not to mention other violent crimes, ever results in conviction. Impunity and the corruption that enables it is a way of life there.

It was no surprise that in the days and weeks after Berta Caceres was murdered, the Honduran police tried to cover it up. It was only because of international pressure, including by the U.S. Embassy, that the fraudulent "investigation" did not end there, as so often happens in Honduras when the victim is not someone of notoriety.

Eventually, last November, after what seemed like interminable foot dragging, a trial resulted in the conviction of seven of those involved. That was a significant achievement, considering that absent international pressure Berta Caceres's case would have faded from memory like all the others. That trial also implicated top officials of the hydroelectric company DESA, one of whom is still awaiting trial 3 years later.

I was a prosecutor before I became a Senator. I prosecuted many murder cases. While premeditated murder is a horrific crime, it is often relatively easy to prove. In Berta Caceres's case, there was a lot of evidence. So to those who ask why, 3 years later, we are still waiting for justice, I think the answer is obvious. There are powerful forces within the Honduran Government who are beyond the reach of the Honduran justice system, and the attorney general recognizes that.

So today, 3 years later, there are some who conceived of, or knew of, the plan to murder Berta Caceres who have not been charged. The question, 3 years later, is when will they be charged? When will they be brought to justice?

Neither I nor the world have forgotten Berta Caceres. Our desire to see justice done in her case is as strong today as it was 3 years ago not only because of the importance it has for her family and her community, but for the larger cause of justice in Honduras. Impunity is a powerful, evil force, but I believe the whole truth about this crime will eventually be known.